

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 1-14 remain pending and are submitted for the Examiner's reconsideration in light of the following remarks.

Initially, the Examiner objected to claims 4-14 under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. Applicant has amended claims 4-12 to omit all improper multiple dependent claim language. Accordingly, claims 13-14 no longer depend from improper multiple dependent claims. Applicant respectfully submits that these amendments overcome the objections under 37 C.F.R. § 1.75(c), and therefore respectfully requests removal of same. In addition, applicant has amended claims 1 and 2 to better conform to U.S. practice.

The Examiner then rejected claims 1-3 under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 2,164,242 to Henry ("Henry") in view of U.S. Pat. No. 6,015,077 to Disher ("Disher"). The Examiner asserts that *Henry* discloses all the elements of claim 1 except a lining. The Examiner further asserts that *Disher* teaches a lining and that it would have been obvious to one skilled in the art at the time of the invention to modify the device of *Henry* with the lining of *Disher*.

Applicant respectfully submits that *Henry* and *Disher* do not teach a perforated support element having openings wherein said openings are closed internally by water repellent porous fabric. The porous fabric allows air to pass through but the water repellent aspect prevents water from leaking out. The sleeve of *Disher* is "structured to provide means within the sleeve for drawing moisture away from the umbrella." *Disher*, col.2 ll.26-27. Alternatively, the sleeve of *Disher* may be structured to "draw and retain moisture which runs off the umbrella." *Disher*, col.2 ll.31-36. Applicant respectfully

submits that fabric that is structured to provide internal means for drawing water off the umbrella, or where the water is drawn and retained within the sleeve, as disclosed in *Disher*, is not porous as claimed in claim 1.

The flexible tube of *Disher* is made of a material that is "waterproof or water-repellent" while the flexible inner lining of the sleeve may be coated on the exterior surface thereof with a substance that renders the material of the flexible tubular sleeve waterproof or water-repellent. *Disher* also discloses that the flexible tubular sleeve may be coated with, or lined with, material that acts to draw moisture from the umbrella or the material of the flexible tubular sleeve may be inherently endowed with the ability to draw or wick moisture away from the umbrella. One example is given as nylon. The closed end of the sleeve can have apertures that allow accumulated water to drain from the flexible tubular sleeve. *Disher* then goes on to disclose that "these apertures may be formed by the attachment of grommets to the material of the flexible tubular source."

Moreover, *Disher* does not show a water-repellent porous fabric. *Disher* merely refers to the lining material being waterproof or water-repellent and the apertures through which water can drain are merely in the material. The material itself is not porous. *Disher* discloses, at column 2 line 24, that the flexible tubular sleeve may be structured to provide means within the sleeve for drawing away moisture from the umbrella. Such means facilitating drying the umbrella within the flexible tubular sleeve and helping to prevent the formation of mold in the umbrella. The water obviously drains from the umbrella.

The flexible tubular sleeve may also be structured with a space at the closed end thereof for collecting water that rolls off the umbrella and may be structured to contain

absorbent material to draw and retain moisture that runs off the umbrella. Alternatively, or in addition, the closed end of the flexible tubular sleeve may be formed with perforations to allow water to exit the flexible tubular sleeve. From this it is clear that water on the umbrella is drawn off by a wick effect. *Disher*, col.4 1.17. The specification refers to material such as nylon.

Furthermore, there is no motivation to combine the *Disher* reference with *Henry*. The Applicant respectfully submits that the Examiner is under an obligation to show that it would be obvious to one skilled in the art to combine the references. *Henry* discloses a device having inner and outer telescoping tubular sections that, when extended, are configured to hold an umbrella. The outer tubular section has elongated slots therein. *Henry*, col.2 11.7-19. There is nowhere within the device of *Henry* to insert the sleeve of *Disher* while still allowing the sleeve to perform its function of allowing water to escape through the fabric. The sleeve cannot be placed inside the outer tubular section with the elongated slots because this would interfere with the telescoping action of the device. Likewise, the sleeve cannot be placed inside the inner tubular section because there are no elongated slots through which the water may escape. Accordingly, there is no motivation to combine *Disher* with *Henry*. For this reason, the rejection of the claims as obvious over the combination of *Disher* and *Henry* fails to present a *prima facie* case for obviousness. Accordingly, withdrawal of the rejection is requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-

5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: February 19, 2008

Respectfully submitted,

By Taylor P. Evans
Taylor P. Evans
Registration No.: 60,506
LERNER, DAVID, LITTBENBERG,
KRMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

849921_1.DOC